

# Senate File 200 - Reprinted

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 14)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for the liability of a landowner of land where  
2 livestock are kept or an owner of adjoining land for erecting  
3 and maintaining a fence, and providing for the assessment of  
4 property taxes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 1 Section 1. Section 169C.1, Code 2007, is amended by adding  
1 2 the following new subsections:

1 3 NEW SUBSECTION. 1A. "Fence" means a fence as described in  
1 4 chapter 359A which is lawful and tight as provided in that  
1 5 chapter, including but not limited to a partition fence. For  
1 6 purposes of this chapter, "fence" includes a fence bordering a  
1 7 public road.

1 8 NEW SUBSECTION. 8. "Public road" means a thoroughfare and  
1 9 its right-of-way, whether reserved by public ownership or  
1 10 easement, for use by the traveling public.

1 11 Sec. 2. NEW SECTION. 169C.6 HABITUAL TRESPASS.

1 12 A habitual trespass occurs when livestock trespasses from  
1 13 the land where the livestock are kept onto the land of a  
1 14 neighboring landowner or strays from the land where the  
1 15 livestock are kept onto a public road, and on three or more  
1 16 separate occasions within the prior twelve-month period the  
1 17 same or different livestock kept on that land have trespassed  
1 18 onto the land of the same neighboring landowner or strayed  
1 19 from the land where the livestock are kept on the same public  
1 20 road.

1 21 1. The local authority upon its own initiative or upon  
1 22 receipt of a complaint shall determine whether livestock are  
1 23 trespassing or straying from the land where the livestock are  
1 24 kept on a public road, and make a record of its findings.

1 25 2. a. Once a habitual trespass occurs, a neighboring  
1 26 landowner may request that the responsible landowner of the  
1 27 land where the trespassing or stray livestock are kept erect  
1 28 or maintain a fence on the land. The neighboring landowner  
1 29 shall make the request to the responsible landowner in  
1 30 writing. The responsible landowner may compel an adjacent  
1 31 landowner to contribute to the erection or maintenance of the  
1 32 fence as provided in chapter 359A.

1 33 b. If the responsible landowner does not erect or maintain  
1 34 a fence within thirty days after receiving the request, the  
1 35 neighboring landowner may apply to the fence viewers as  
2 1 provided in chapter 359A as if the matter were a controversy  
2 2 between the responsible landowner and an adjacent landowner,  
2 3 and the matter shall be resolved by an order issued by the  
2 4 fence viewers, subject to appeal, as provided in chapter 359A.  
2 5 The neighboring landowner shall be a party to the controversy  
2 6 as if the neighboring party were an adjacent landowner. The  
2 7 neighboring landowner is not liable for erecting or  
2 8 maintaining the fence, unless the neighboring landowner is an  
2 9 adjacent landowner who is otherwise required to make a  
2 10 contribution under chapter 359A.

2 11 3. If the fence is not erected or maintained as required  
2 12 in section 359A.6, and upon the written request of the board  
2 13 of township trustees, the board of supervisors of the county  
2 14 where the fence is to be erected or maintained shall act in  
2 15 the same manner as the board of township trustees under that  
2 16 section, including by erecting or maintaining the fence,

2 17 ordering payment from a defaulted party, and certifying an  
2 18 amount due to the county auditor. The amount due shall  
2 19 include the total costs required to erect or maintain the  
2 20 fence and a penalty equal to five percent of the total costs.  
2 21 The amount shall be placed upon the tax books, and collected  
2 22 with interest and penalties after due, in the same manner as  
2 23 other unpaid property taxes.

2 24 Sec. 3. NEW SECTION. 359A.22A HABITUAL TRESPASS.

2 25 A landowner of land where livestock are kept or an owner of  
2 26 adjoining land shall be liable to erect or maintain a fence if  
2 27 the livestock trespasses upon the land of a neighboring  
2 28 landowner or strays from the land where the livestock are kept  
2 29 onto a public road, as provided in section 169C.6.

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2 31 da:nh/cc/26